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POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001
POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

Postal Rate and Fee Changes, 1997)

Docket No. R97-1

OFFICE OF THE CONSUMER ADVOCATE
MOTION ON ASCERTAINMENT OF LIBRARY REFERENCES
REQUIRING SPONSORSHIP AND DESIGNATION AS EVIDENCE
(November 12, 1997)

The Office of the Consumer Advocate ("OCA") hereby submits, pursuant to Order No. 1201 of the Commission and subsequent rulings of the Presiding Officer, that upon its review of the Postal Service direct case certain additional library references have been ascertained to require sponsorship and designation as evidence in this proceeding.

For the reasons set forth below, OCA moves that the Postal Service be required to produce a witness or witnesses to sponsor Library References H-148 and H-149 and to designate them as evidence. OCA further moves that the Presiding Officer permit written discovery of those library references, to the extent not already permitted by Special Rule of Practice 2.E., and to permit oral cross-examination of the sponsor(s), as necessary .

Following a series of pleadings in this proceeding, the Commission determined that certain library references filed in this proceeding should be sponsored, designated

as evidence, subject to further discovery, and the subject of oral cross-examination. PRC Order No. 1201. The Commission stated that "most participants are best served when they and the Commission can evaluate all available relevant evidence" and that the 10 month statutory period for Commission action requires "an especially stringent obligation to thoroughly document a Postal Service request." PRC Order No. 1201 at 11,12. It further recognized, "It is helpful when relevant cost and demand analyses are sponsored by someone with first-hand knowledge of how data were collected and analyzed to develop reported outputs" and it is "best to clarify areas of uncertainty, and to admit appropriate material as evidence to assure that a full and complete record is available as the basis for decision." PRC Order No. 1201 at 15,18. The Commission therefore "fully supports the proposition that available relevant, material information should be admitted into the evidentiary record so long as doing so will not deny due process to any participant. PRC Order NO. 1201 at 17.

After the Commission's determination, the Presiding Office scheduled additional hearings for December 1-4, 1997, to receive supplemental testimony and to allow cross-examination on 49 items including several library references designated by the Postal Service. Presiding Officer's Ruling No. R97-1/54.

The Commission's order establishing the guidelines for this procedure stated, "Participants should review their analysis of the Postal Service direct case to ascertain if other library references [than those already designated by the Postal Service] fit into the category "of requiring sponsorship and designation as evidence." PRC Order No. 1201

at 18. The Presiding Officer subsequently noted that the Commission had so directed the parties "to assure that a full and complete record is available as the basis for decision in this case." Presiding Officer's Ruling No. R97-1/56, at 2.

Library references H-148, titled "Bradley/USPS-T-14 Electronic Input Data", and H-149, titled "Bradley/USPS-T-14 Electronic Version of Econometric Programs", were filed with the Commission on July 10, 1997, at the time of the initial application by the Postal Service. Like other library references which are the subject of this additional procedure, they were not sponsored by any witness and have not been offered in evidence by the Postal Service in support of its direct case. However, it is clear from the testimony that the materials in these references contain the data and the computer programs which form the underlying technical support for the conclusions and recommendations of witness Bradley who proposes important changes in the volume variability measurements of mail processing costs. See, for example, T-14, Tables 7-9 at 54, 63, and 65, respectively.

The Presiding Officer recognized the importance of the data in Library Reference H-148. The line of questions to witness Bradley from the bench related to the Presiding Officer's own computer generated plot of all of witness Bradley's scrubbed data for manual letter operations. Tr.11/5580. Witness Bradley's responses to the Presiding Officer's questions drew upon conclusions he has reached using the programs filed in Library Reference H-149. Tr.11/5581-82.

The Presiding Officer's questions and those of the participants indicate important questions have been raised regarding the underlying assumptions of those library references. See, for example, Tr.11/5544-5558, 5567-5570. The issues involved are significant in this case inasmuch as the mail processing costs comprise a significant portion of Postal Service costs. It is, therefore, important that the econometric models which support the testimony of witness Bradley be a part of this record and that there is the opportunity for oral cross-examination of the sponsor(s) of those library references.

Moreover, the library references are important to the OCA for the preparation of its direct case. The OCA is reviewing these library references in detail in order to analyze, replicate, and examine the econometric models and the computer programs included in these library references in terms of the conclusions and implications of the proposed new costing methodology. The OCA case on this volume variability issue will relate to a large extent to the materials in the library references as a guide in responding to the evidence of the Postal Service. These library references are an important under-pinning of the Postal Service case and yet are not in evidence in this proceeding. Unless they are now put into evidence, the OCA is placed in the position of rebutting not the direct case of the Postal Service but the non-evidentiary computer programs in the library reference material which bring to life the econometric models of witness Bradley because that is where the essence of their case is on this issue.

The Commission's decision will be based on a broader base of evidentiary support if the data and programs of witness Bradley are in the record in order to

evaluate more fully the issues which will be presented for decision. Given the development of the history of the library references in this proceeding and the Commission's conclusions regarding the desirability of a full and complete record, the OCA submits that these library references should be entered into the record under witness sponsorship in order for a full and complete record of the volume variability of mail processing costs.

OCA does not request any extension of the time previously established for discovery requests by the Presiding Officer. OCA is today submitting several interrogatories to the Postal Service regarding these two library references and may *explore the possibility of an informal technical conference if necessary*. Those interrogatories are submitted to the Postal Service pursuant to Special Rule 2.E. providing for the submission of interrogatories without time limitations to obtain information such as operating procedures or data available only from the Postal Service. There is no doubt the information sought can only be obtained from the Postal Service. However, to the extent the Special Rule 2.E. might be deemed an insufficient basis for such interrogatories, (and the OCA makes no attempt to address fully that issue here) the recent rulings of the Commission and the Presiding Officer make clear the intent of the Commission to allow additional time for interrogatories on library references that need to be entered as evidentiary material to assure a full and complete record in this case.

Nor does OCA request special treatment regarding oral cross-examination of a sponsor(s) of these library references. OCA hopes that its interrogatories will obviate the need for oral cross-examination but cannot now make that determination.

For the above reasons, the OCA requests that the Presiding Officer grant the above motions.

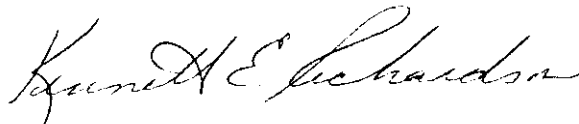
Respectfully submitted,

A handwritten signature in cursive script, reading "Kenneth E. Richardson".

KENNETH E. RICHARDSON
Attorney

CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the rules of practice.

A handwritten signature in cursive script, reading "Kenneth E. Richardson".

KENNETH E. RICHARDSON
Attorney

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